

EXPLANATION OF PROPOSED RULE

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 38, entitled, "Trichomoniasis". The proposal is to amend the regulations in response to recommendations from the Bovine Trichomoniasis Working Group (BTWG).

The Commission convened the BTWG in 2008, to provide recommendations to the Commission on the components and implementation strategy for a Trichomoniasis Control Program for the State of Texas. The BTWG recently completed an annual review the Trichomoniasis program and made recommendations to the Commission on amendments to the Trich program. The BTWG also recommended that the program should be continued as provided through Section 38.7.

Representatives of the BTWG met on May 4, 2011, to review specific requests for program changes received and to evaluate the effectiveness of current rules. Requests were received from cattle producers, auction market operators, veterinarians, and TAHC personnel. TAHC state epidemiologist Andy Schwartz gave an overview of the statewide program, and TAHC regional director Tommy Barton provided the agency perspective from a field office dealing directly with veterinarians, herd owners and market operators. Dr. Alfonso Clavijo gave the TVMDL perspective on the Trich program, and provided handouts showing the test prevalence and distribution of positive bulls across the state over the past year. He also discussed an ongoing T. foetus PCR pooling study being coordinated by the Parasitological Committee of the AAVLD. The study is to determine the efficacy of pooling of samples for T. foetus testing by real-time PCR. The study will also look at DNA degradation with continued incubation. Results are to be reported at the annual AAVLD meeting in September 2011.

BTWG Recommendations for Rule Changes

The group made a number of recommendations associated with these requirements. The first area of change was in Section 38.1, which is entitled "Definitions" and provides definitions for terms utilized in this chapter. The recommendation was to change the definition of "Exempt Cattle" from "Cattle that have been physically rendered sterile for breeding" to "Cattle that have been physically rendered incapable of intromission at a facility recognized by the TAHC". The reason was to more clearly identify the type of procedure that is recognized as acceptable by the veterinary community.

The next changes were for Section 38.3, which is entitled "Infected Bulls and Herds". This describes how infected bulls and their associated herds are handled. In subsection (a) requirements are added to address retesting of positive bulls. Breeding bulls which have been disclosed as reactors may be retested under specific circumstances. The animal owners, or their agents, must make a request to the TAHC Regional Director where the bull is located. The retest(s) must be conducted within 30 days after the date of the original test. The test(s) must be submitted to the Texas Veterinary Medical Diagnostic Laboratory (TVMDL). The positive bull must be held under quarantine along with all other exposed bulls on the premise and they must have two negative PCR tests to be released.

In that same section there is also a change to subsection (c) by adding that breeding bulls that were in a herd with a positive and needing to be retested must be retested within sixty (60) days. This is to ensure that that testing is done in an appropriate timeframe.

In the same section we are adding a new subsection (d) which provides that breeding bulls in a herd with positive bulls may be maintained without meeting the requirements of two negative tests within sixty (60) days, provided they execute a herd control plan. If so, then all breeding bulls may be tested annually. This will only be authorized for a maximum of three (3) years, then all exposed bulls shall be tested in accordance with this section.

The next section for recommended changes is Section 38.6, which is entitled “Official Trichomoniasis Tests”. Basically, this amendment is to allow the approved laboratory to pool individually submitted samples to be PCR tested. This must be approved by the TAHC Regional Office where the animals are located, but it is intended to allow the producer to reduce their testing cost. However, veterinary practitioners may not submit pooled samples for either releasing test.

The last section to be amended is Section 38.8 and is entitled “Herd Certification Program—Breeding Bulls”. Under the current subsection (b) there is a conflict in the language. The rule indicates for the first three years of testing to qualify for the herd certification it is necessary for all non-virgin bulls to be tested, but it also indicated they could be sent to slaughter without being tested. All bulls need to be tested even if going to slaughter in order to ensure that positive animals are removed from the herd. If slaughter bulls were not tested they could have Trichomoniasis and maintain infection in the herd without being disclosed. This was an unintentional loop hole that is closed through this modification.

FISCAL NOTE

Dr. Matt Cochran, DVM, Assistant Executive Director of Administration, Texas Animal Health Commission, has determined for the first five-year period the rules are in effect, there will be no significant additional fiscal implications for state or local government as a result of enforcing or administering the rules. An Economic Impact Statement (EIS) is required if the proposed rule has an adverse economic effect on small businesses. The agency has evaluated the requirements and determined that there is not an adverse economic impact on cattle breeders or raisers. The purpose of the proposed amendments is to make changes to the program as recommended by the BTWG. These changes include making the requirements entering the state clearer to understand and more effective in helping a herd owner to manage, control or prevent introduction of the disease into their herd. For these reasons, the Commission has determined that there is not an adverse impact on cattle raisers and breeders and, therefore, there is no need to do an EIS. Implementation of these rules poses no significant fiscal impact on small or micro-businesses.

PUBLIC BENEFIT NOTE

Dr. Cochran has also determined that for each year of the first five (5) years the rules are in effect, the public benefit is the requirements for entering the state are clearer to understand and more effective in helping a herd owner to manage, control or prevent introduction of the disease into their herd, as well as to provide some pragmatic options in managing their herds.

LOCAL EMPLOYMENT IMPACT STATEMENT

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rules will not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission.

TAKINGS ASSESSMENT

The agency has determined that the proposed governmental action will not affect private real property. The proposed amendments are an activity related to the handling of animals, including requirements for testing, movement, inspection, identification, reporting of disease, and treatment, in accordance with 4 TAC §59.7, and are, therefore, compliant with the Private Real Property Preservation Act in Government Code, Chapter 2007.

REQUEST FOR COMMENT

Comments regarding the proposed amendments may be submitted to Delores Holubec, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0721 or by e-mail at "comments@tahc.state.tx.us."

STATUTORY AUTHORITY

Chapter 38 is adopted is under the following statutory authority as found in Chapter 161 of the Texas Agriculture Code. The Commission is vested by statute, §161.041(a), with the requirement to protect all livestock, domestic animals, and domestic fowl from disease. The Commission is authorized, by §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock. If the Commission determines that a disease listed in §161.041 of this code or an agent of transmission of one of those diseases exists in a place in this state among livestock, or that livestock are exposed to one of those diseases or an agent of transmission of one of those diseases, the Commission shall establish a quarantine on the affected animals or on the affected place. That authority is found in §161.061.

As a control measure, the Commission, by rule may regulate the movement of animals. The Commission may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. That authority is found in §161.054. An agent of the Commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order to determine if the shipment originated

from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease. That authority is found in §161.048.

Section 161.005 provides that the Commission may authorize the executive director or another employee to sign written instruments on behalf of the Commission. A written instrument, including a quarantine or written notice signed under that authority, has the same force and effect as if signed by the entire Commission.

No other statutes, articles, or codes are affected by the amendments.

Texas Administrative Code

<u>TITLE 4</u>	AGRICULTURE
<u>PART 2</u>	TEXAS ANIMAL HEALTH COMMISSION
<u>CHAPTER 38</u>	TRICHOMONIASIS
RULE §38.1	Definitions

The following words and terms, when used in this chapter, shall have the defined meanings, unless the context clearly indicates otherwise:

(1) Accredited Veterinarian--A licensed veterinarian who is approved to perform specified functions required by cooperative state-federal disease control and eradication programs pursuant to Title 9 of the Code of Federal Regulations, Parts 160 and 161.

(2) Affected Herd--Any herd in which any cattle have been classified as *Trichomonas foetus* positive on an official test and which has not completed the requirements for elimination of the disease from the herd.

(3) Cattle--All dairy and beef animals (genus *Bos*) and bison (genus *Bison*).

(4) Certified Veterinarians--Veterinarians certified with, and approved by the Commission to collect Trichomoniasis samples for official Trichomoniasis testing and to perform any other official function under the Trichomoniasis program.

(5) Commission--The Texas Animal Health Commission.

(6) Executive Director--The Executive Director of the Texas Animal Health Commission or his designee.

(7) Exempt Cattle (from testing requirements)--Cattle that have been physically rendered ~~sterile for breeding~~ incapable of intromission at a facility recognized by the TAHC.

(8) Exposed Cattle--Cattle that are part of an affected herd or cattle that have been in contact with Trichomoniasis infected cattle.

(9) Herd--

(A) All cattle under common ownership or supervision or cattle owned by a spouse that are on one premise; or

(B) All cattle under common ownership or supervision or cattle owned by a spouse on two or more premises that are geographically separated, but on which the cattle have been interchanged or where there has been contact among the cattle on the different premises. Contact between cattle on the different premises will be assumed unless the owner establishes otherwise and the results of the epidemiological investigation are consistent with the lack of contact between premises; or

(C) All cattle on common premises, such as community pastures or grazing association units, but owned by different persons. Other cattle owned by the persons involved which are located on other premises are considered to be part of this herd unless the epidemiological investigation establishes that cattle from the affected herd have not had the opportunity for direct or indirect contact with cattle from that specific premises. Approved feedlots and approved pastures are not considered to be herds.

(10) Herd Test--An official test of all non-virgin bulls in a herd.

(11) Hold Order--A document restricting movement of a herd, unit, or individual animal pending the determination of disease status.

(12) Infected Cattle--Any cattle determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as infected.

(13) Infected Herd--The non-virgin bulls in any herd in which any cattle have been determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as being infected.

(14) Movement Restrictions--A "Hold Order," "Quarantine," or other written document issued or ordered by the Commission to restrict the movement of livestock or exotic livestock.

(15) Negative--Cattle that have been tested with official test procedures and found to be free from infection with Trichomoniasis.

(16) Official Identification/Officially Identified--The identification of livestock by means of an official identification device, official eartag, registration tattoo, or registration brand, or any other method approved by the Commission and/or Administrator of APHIS that provides unique identification for each animal. Official identification included USDA alpha-numeric metal eartags (silver bangs tags), 840 RFID tags, 840 bangle tags, official breed registry tattoos, official breed registry individual animal brands, and official Trich tags issued by the animal health official of the state of origin of imported bulls.

(17) Official Trichomoniasis test--A test for bovine Trichomoniasis, approved by the Commission, applied and reported by TVMDL or any other laboratory classified as an official laboratory by the Commission. The test document is valid for sixty (60) days and may be transferred within that timeframe with an original signature of the consignor.

(18) Positive--Cattle that have been tested with official test procedures and found to be infected with Trichomoniasis.

(19) Permit (VS 1-27)--A premovement authorization for movement of infected or exposed cattle from the farm or ranch of origin through marketing channels to slaughter or for movement of untested animals to a location where the animals will be held under hold order until testing has been accomplished.

(20) Quarantine--A written Commission document or a verbal order followed by a written order restricting movement of animals because of the existence of or exposure to Trichomoniasis. The Commission may establish a quarantine on the affected animals or on the affected place. The quarantine of an affected place may extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen. The Commission may establish a quarantine to prohibit or regulate the movement of any article or animal that the commission designates to be a carrier of Trichomoniasis and/or an animal into an affected area, including a county district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen.

(21) Test-Eligible Cattle--All sexually intact non-virgin male cattle and all sexually intact male cattle which have erupting or erupted permanent incisor teeth (or older), which are being imported into the state of Texas or is being sold, leased, gifted or exchanged in the state of Texas for breeding purposes.

(22) Trichomoniasis--A venereal disease of cattle caused by the organism *Tritrichomonas foetus*.

(23) TVMDL--The official laboratory for testing is the Texas Veterinary Medical Diagnostic Laboratory.

(24) Virgin Bull--Sexually intact male cattle which have not serviced a cow and which are not more than 24 months of age as determined by the presence of the two permanent central incisors in wear or birth date on breed registry papers certified by the breeder; or not more than 30 months of age and certified by both the breeder based on birth date and confirmed by his

veterinarian that the bull facility is sufficient to prevent contact with female cattle. The certification by the breeder is valid for sixty (60) days and may be transferred within that timeframe with an original signature of the consignor.

Texas Administrative Code

TITLE 4 AGRICULTURE

PART 2
CHAPTER 38
RULE §38.3

TEXAS ANIMAL HEALTH COMMISSION
TRICHOMONIASIS
Infected Bulls and Herds

(a) Bulls that have been determined to be infected by culture or by RT-PCR test and/or by confirmatory RT-PCR test shall be placed under hold order along with all other non-virgin bulls in the bull herd. Infected bulls must be isolated from all female cattle from the time of diagnosis until final disposition or as directed by the Commission. Breeding bulls which have been disclosed as reactors may be retested provided: the owners, or their agents initiate a request to the TAHC Regional Director where the bull is located; that retests are conducted within 30 days after the date of the original test; test samples for retests are submitted to the Texas Veterinary Medical Diagnostic Laboratory (TVMDL) for testing; and the positive bull is held under quarantine along with all other exposed bulls on the premise. If they are retested, they must have two negative tests by PCR to be released within 30 days of the initial test.

(b) Positive bulls may be moved directly to slaughter or to a livestock market for sale directly to slaughter. In order to move, the bulls shall be individually identified by official identification device on a VS 1-27 movement permit from the ranch to the market and from the market to the slaughter facility, or from the ranch directly to the slaughter facility. Movement to slaughter shall occur within 30 days from disclosure of positive test results (or confirmatory test results) or as directed by the Commission.

(c) All bulls that are part of a herd in which one or more bulls have been found to be infected shall be placed under hold order in isolation away from female cattle until they have undergone at least two additional culture tests with negative results (not less than a total of three negative culture tests or two negative RT-PCR tests) within 60 days of the initial test unless handled in accordance with subsection (d). All bulls remaining in the herd from which an infected bull(s) has been identified would have to be tested two more times by culture or one more time by RT-PCR test. Any bull positive on the second or third test would be classified as positive. All bulls negative to all three culture tests or both RT-PCR tests would be classified as negative and could be released for breeding.

(d) A quarantined herd with breeding bulls that tested negative on the initial test may be maintained with the herd if they develop a Trichomoniasis herd control plan, with the herd owner and their private veterinarian, that will address herd management practices to address this disease and have all breeding bulls tested annually. This will only be authorized for a maximum of 3 years, then all exposed bulls shall be tested in accordance with this section.

Texas Administrative Code

<u>TITLE 4</u>	AGRICULTURE
<u>PART 2</u>	TEXAS ANIMAL HEALTH COMMISSION
<u>CHAPTER 38</u>	TRICHOMONIASIS
RULE §38.6	Official Trichomoniasis Tests

Approved Tests. Approved tests for trichomoniasis testing within the State of Texas shall include the culture or Real Time Polymerase Chain Reaction (RT-PCR) testing of samples collected into an InPouch by certified veterinarians following approved collection, handling and shipping protocols, then tested in approved laboratories.

- (1) Official Culture Tests. An official test is one in which the sample is received in the official laboratory, in good condition, within forty-eight (48) hours of collection and such sample is tested according to the "Official Protocol for Culture of Trichomoniasis." Samples in transit for more than forty-eight (48) hours will not be accepted for official culture testing. During transportation, the organisms should be protected from exposure to daylight and extremes of temperature, which should remain above 15 degrees Celsius (59 degrees Fahrenheit) and below 37 degrees Celsius (98.6 degrees Fahrenheit).
- (2) Official Polymerase Chain Reaction Tests. Polymerase Chain Reaction is accepted as an official test or an official confirmatory test when completed by a qualified laboratory, approved by the Executive Director, and the sample is received in good condition by the laboratory within forty-eight (48) hours after collection, or is incubated by the collecting veterinarian for 48 hours after collection, then submitted to arrive at the laboratory within 96 hours of collection. Trichomoniasis samples pooled at the laboratory may qualify as the official test for one of the two tests required to release the quarantine if approved by the TAHC Regional Office where the animals are located. Veterinary practitioners may not submit pooled samples for either releasing test.
- (3) Other Official Tests. Other tests for Trichomoniasis may be approved by the Commission, as official tests, after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established.

Texas Administrative Code

<u>TITLE 4</u>	AGRICULTURE
<u>PART 2</u>	TEXAS ANIMAL HEALTH COMMISSION
<u>CHAPTER 38</u>	TRICHOMONIASIS
RULE §38.8	Herd Certification Program--Breeding Bulls

(a) The owner of all non-virgin breeding bulls shall sign an agreement with the Commission and be tested annually for T. foetus for the three (3) consecutive years following the adoption of this rule.

(b) During the three (3) year inception period, all non-virgin breeding bulls with changes of ownership, leased, rented or otherwise shall be tested for T. foetus within 30 days prior to such change ~~unless consigned direct to slaughter~~. The test will be completed and test results known prior to the time a bull(s) is physically transferred to the receiving premises or herd.

(c) Negative T. foetus bulls will be identified with the official identification.

(d) All slaughter bulls removed from the herd will be tested for T. foetus. The test may be performed at a slaughter facility if prior arrangement with a veterinarian and an appropriate agreement with the slaughter facility management is made.

(e) Bovine females added to a certified herd shall not originate from a known T. foetus infected herd. Female herd additions must originate from a certified T. foetus free herd or qualify in one of the following categories:

(1) calf at side and no exposure to other than known negative T. foetus bulls;

(2) checked by an accredited veterinarian, at least 120 days pregnant and so recorded;

(3) virgin; or

(4) heifers exposed as virgins only to known negative T. foetus infected bulls and not yet 120 days pregnant.

(f) Records must be maintained for all tests including all non-virgin bulls entering the herd and made available for inspection by a designed accredited veterinarian or state animal health official.

(g) All non virgin bulls shall be tested for T. foetus every two (2) years thereafter to maintain certification status.